

## TITLE 7--AGRICULTURE

### CHAPTER 73--FARMLAND PROTECTION POLICY

#### Sec. 4201. General provisions

##### (a) Congressional statement of findings

Congress finds that--

- (1) the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States;
- (2) each year, a large amount of the Nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;
- (3) continued decrease in the Nation's farmland base may threaten the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;
- (4) the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;
- (5) Federal actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;
- (6) the Department of Agriculture is the agency primarily responsible for the implementation of Federal policy with respect to United States farmland, assuring the maintenance of the agricultural production capacity of the United States, and has the personnel and other resources needed to implement national farmland protection policy; and
- (7) the Department of Agriculture and other Federal agencies should take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

##### (b) Statement of purpose

The purpose of this chapter is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

##### (c) Definitions

As used in this chapter--

(1) the term “farmland” includes all land defined as follows:

(A) prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion, as determined by the Secretary. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage;

(B) unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables; and

(C) farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, or oilseed crops, as determined by the appropriate State or unit of local government agency or agencies, and that the Secretary determines should be considered as farmland for the purposes of this chapter;

(2) the term “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any territory or possession of the United States;

(3) the term “unit of local government” means the government of a county, municipality, town, township, village, or other unit of general government below the State level, or a combination of units of local government acting through an areawide agency under State law or an agreement for the formulation of regional development policies and plans;

(4) the term “Federal program” means those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve (A) undertaking, financing, or assisting construction or improvement projects; or (B) acquiring, managing, or disposing of Federal lands and facilities. The term “Federal program” does not include construction or improvement projects that on the effective date of this chapter are beyond the planning stage and are in either the active design or construction state; and

(5) the term “Secretary” means the Secretary of Agriculture.

(Pub. L. 97-98, title XV, Sec. 1540, Dec. 22, 1981, 95 Stat. 1341.)

## References in Text

The effective date of this chapter, referred to in subsec. (c)(4), is six months after Dec. 22, 1981, see Effective Date note below.

## Effective Date

Section 1549 of Pub. L. 97-98 provided that: "The provisions of this subtitle [subtitle I (Secs. 1539-1549) of title XV of Pub. L. 97-98, enacting this chapter] shall become effective six months after the date of enactment of this Act [Dec. 22, 1981]."

## Short Title

Section 1539 of Pub. L. 97-98 provided that: "This subtitle [subtitle I (Secs. 1539-1549) of title XV of Pub. L. 97-98, enacting this chapter] may be cited as the 'Farmland Protection Policy Act'."

## Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## Farmland Protection

Pub. L. 101-624, title XIV, ch. 2, Secs. 1465-1470B, Nov. 28, 1990, 104 Stat. 3616-3619, as amended by Pub. L. 102-237, title II, Secs. 201(b), (c), 203, Dec. 13, 1991, 105 Stat. 1847, 1848, provided that:

### SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

(a) Short Title.--This chapter may be cited as the 'Farms for the Future Act of 1990'.

(b) Purpose.--It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

(c) Definitions.--As used in this chapter:

(1) Allowable interest rate.--The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

(2) Eligible loan.--The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

(3) Eligible state.--The term 'eligible State' means--

(A) the State of Vermont; and

(B) at the option of the Secretary and subject to appropriations, any State that--

(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

(4) Lending institution.--The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

(5) Program.--The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

(6) Secretary.--The term 'Secretary' means the Secretary of Agriculture.

(7) State.--The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(8) State trust fund.--The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

#### SEC. 1466. ESTABLISHMENT OF PROGRAM.

##### (a) In General.--

(1) Purpose.--The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

(2) Assistance.--Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

##### (b) Mandatory Assistance to Each State Trust Fund.--The Secretary shall--

(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

(c) Funding.--

(1) Issuance of stock.--The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

(2) Purchase of stock.--The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of the Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

(3) Commodity credit corporation.--If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

(d) Required Purchases of Stock.--The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

(e) Entitlements.--The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

(f) Regulations.--Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth--

(1) the application procedures for eligible States;

- (2) the factors to be used in approving applicants;
- (3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);
- (4) recordkeeping requirements for approved State trust funds;
- (5) requirements to prevent program abuse and procedures to recover improperly obtained funds;
- (6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and
- (7) any other rules necessary and appropriate to carry out the program.

(g) Duration of Program.--The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

(h) Eligible Uses for Guaranteed Loan Funds.--

(1) In general.--Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used--

(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

(C) to pay the costs of enforcing easements or land use restrictions;

(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any federally insured State nonmember bank.

(2) Collateral for loans.--To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

(i) State Use of Guaranteed Loan Funds.--The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or [nor] the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

(j) Special Rules for the Pilot Project State.--Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

(1) Provision of loan guarantee and interest assistance agreement.--Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

(2) Approval of application.--The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

(3) Amount of guarantees.--The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of--

(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

(k) Miscellaneous Provisions.--

(1) Operation.--Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

(2) Earnings.--Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

(a) Accounts.--To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

(b) Compliance.--If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

SEC. 1468. APPLICATIONS AND ADMINISTRATION.

(a) Applications.--In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

(b) Annual Applications.--Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.



(c) Match and Maximum Amount.--

(1) In general.--The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed \$10,000,000 in any fiscal year for any given State.

(2) Earnings.--Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

(3) Obligations.--Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

(4) Land.--The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

(ii) the donation is consistent with the State farmland preservation plan, except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

(d) Clarification of Federal Law.--Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

SEC. 1469. REPORT.

Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

(a) In general.--This chapter shall become effective on October 1, 1990. Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State.

(b) Regulations.--Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.

#### SEC. 1470A. COMPTROLLER GENERAL REPORTS.

On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

#### SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

The Secretary shall issue the stock required to be issued to the Secretary of [the] Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.

Amendment by section 201(b), (c) of Pub. L. 102-237 to sections 1466 and 1470 of Pub. L. 101-624, set out above, effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.

Pub. L. 102-341, title VII, Sec. 730, Aug. 14, 1992, 106 Stat. 909, provided that: ``For loan guarantees authorized under sections 1465-1469 of Public Law 101-624 [set out above] for the Agricultural Resource Conservation Demonstration Program, \$10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974 [2 U.S.C. 661a], \$3,644,000: Provided, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: Provided further, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.